



**UNITED STATES OF AMERICA
DEPARTMENT OF TRANSPORTATION
OFFICE OF THE SECRETARY
WASHINGTON, D.C.**

Issued by the Department of Transportation
on the 2nd day of October, 1996

Served: October 8, 1996

In the Matter of

**U.S.-Russia Combination Service
Frequency Allocation**

Docket OST-96-1672

FINAL ORDER ALLOCATING FREQUENCIES

Summary

By this order, we make final, with one minor modification, our tentative decision in Order 96-8-48, formalizing allocation of the available frequencies for U.S.-Russia services, subject to our standard dormancy condition.

Background

Under the Air Transport Agreement between the United States and the Russian Federation (Agreement), up to six combination carriers may operate from a point or points in the United States via intermediate points to Moscow, St. Petersburg, Magadan, Khabarovsk, Vladivostok, Petropavlovsk, and Yuzhno-Sakhalinsk and beyond to China, Hong Kong, South Korea, Singapore and Taiwan. No more than three U.S. combination carriers may operate between any city pair on the routes specified.¹ Operations by designated U.S. carriers are limited to a total of 54 round-trip frequencies per week for combination services.²

¹ Under the terms of the Agreement services operated exclusively pursuant to cooperative marketing arrangements, including code-share arrangements, do not count against the designation limitations. However, cooperative service arrangements between airlines of either Party and airlines of a third country shall count for one-half of one frequency for purposes of the frequency limitations. The Annexes to the Agreement expired May 31, 1996. The Annexes have continued to be observed on the basis of comity and reciprocity.

² All-cargo services are also limited and have been allocated as follows: Federal Express, 5 frequencies; Evergreen, 3 frequencies; and Polar, 8 frequencies. Order 96-2-17. These frequencies are subject to dormancy conditions.

By Order 96-8-48 the Department tentatively decided to formalize the allocation of U.S. carrier Russia combination frequencies based on existing U.S. carrier operations and awards to ensure that U.S. carrier operations did not exceed the level of operations provided for under the Agreement.³ We also proposed to subject those frequency allocations to our standard dormancy condition, wherein frequencies would be deemed dormant if they were not operated for 90 days, except where service in the market is seasonal. In such cases, we specified that a carrier must notify the Department that its operations are of a seasonal nature; otherwise the dormancy condition would apply. Finally, we put all carriers on notice that no additional combination services in the U.S.-Russia market may be operated without the appropriate frequency allocation from the Department.

Objections to our tentative decision were due September 16, 1996; answers to any objections were due September 23, 1996.

Responsive Pleadings

United Air Lines, Inc., was the only carrier that responded to our show-cause order. United states that it has no objection to the Department's decision to make formal allocation of U.S.-Russia frequencies to U.S. carriers and to subject those frequency allocations to the standard 90-day dormancy provision. However, with respect to the frequencies allocated to United, United requests that the 90-day dormancy provision run from the date on which the government of the Russian Federation allows United to restore code-share services, rather than from the day on which the allocation order becomes final.

In this regard, United states that although its code-share services had twice in the past been approved by the Russian Federation, its request for extension of those approvals has been denied since 1995. United states that it continues to seek renewal but has received no indication that the Russian Federation has changed its position notwithstanding protests by the U.S. government of the previous denials. Under these circumstances, United urges the Department not to adopt a final order that would terminate United's frequency allocation 90 days after its effective date, but rather would impose the 90-day dormancy provision from the date on which United's code-share schedules are once again approved by the Russian Federation.

No answers to United's comments were filed.

Decision

We have decided to make final our tentative findings and conclusions in Order 96-8-48, with one minor modification. No party has opposed our proposal to formalize our allocation of U.S.-Russia combination service frequencies. Therefore, we will allocate the U.S.-Russia combination service frequencies as follows: Alaska-3 weekly

³ See 96-8-48 at 2 and 3 for a description of U.S. carrier U.S.-Russia authorizations and services.

frequencies; Delta-19 weekly frequencies; Northwest-8.5 weekly frequencies; Trans World Airlines-7 weekly frequencies; and United-7 weekly frequencies. In addition, as we noted in our show-cause order, 5 weekly frequencies will be reserved for Baltia Air Lines to conduct U.S.-Russia services should it commence its proposed U.S.-Russia services authorized by Order 96-2-51. The balance of 4.5 weekly frequencies remain available for allocation.

We will also subject the frequency allocations to our standard 90-day dormancy condition. No party has opposed our findings that such a condition is in the public interest. The only comment was from United which has requested a modification of the dormancy condition with respect to the date on which the dormancy period on its allocation would begin. Given the circumstances affecting United's U.S.-Russia services, we concur with United that the dormancy period with respect to its frequency allocation should be modified. Therefore, the 90-day period on United's frequency allocation will begin on the date that the Government of the Russian Federation permits United to restore its code-share services in the market. The 90-day period with respect to Alaska, Delta, Northwest and TWA will begin upon issuance of a final order in this proceeding. The dormancy period for Baltia will begin when Baltia has been issued an effective certificate and the Department has formally allocated the reserved frequencies to Baltia for its U.S.-Russia services.

All carriers allocated flights by this order should notify the Department no later than seven calendar days from the date of service of this order whether the services operated under their allocations are operated on a year-round or seasonal basis. The number of frequencies and markets served on a seasonal basis should be specifically identified. The notice should be filed in the form of a letter addressed to the Director, Office of International Aviation, and should be filed in the docket and served on all parties to this proceeding.

Finally, we remind carriers that no additional combination services in the U.S.-Russia market may be operated without a specific frequency allocation from the Department.

ACCORDINGLY,

1. Except as noted herein, we make final our tentative findings and conclusions set forth in Order 96-8-48;
2. We allocate U.S.-Russia combination service frequencies to the following carriers:

Alaska Airlines:	3 weekly frequencies
Delta Air Lines:	19 weekly frequencies
Northwest Airlines:	8.5 weekly frequencies
Trans World Airlines:	7 weekly frequencies
United Air Lines:	7 weekly frequencies;

3. The frequency allocations in ordering paragraph 2, are subject to the condition that they will expire automatically and the frequencies will revert back to the Department for reallocation if they are not used for a period of 90 days; the 90-day dormancy period will begin on the date of issuance of this order with respect to Alaska, Delta, Northwest, and TWA; the 90-day dormancy period will begin with respect to United on the date on which the Government of the Russian Federation permits United to restore its authorized code-share services with Lufthansa in the U.S.-Russia market;

4. We direct the carriers allocated flights in ordering paragraph 2, above, to notify the Department as described in the text of this order no later than seven calendar days from the date of service of this order as to which services they are currently authorized to operate are provided on a year-round or seasonal basis;⁴ and

5. We will serve this order on Alaska Airlines, Inc.; Baltia Air Lines, Inc.; Delta Air Lines, Inc.; Northwest Airlines, Inc.; Trans World Airlines, Inc.; United Air Lines; the Ambassador of the Russian Federation in Washington, D.C.; the United States Department of State (Office of Aviation Negotiations); and the Federal Aviation Administration.

By:

CHARLES A. HUNNICUTT
Assistant Secretary for Aviation
and International Affairs

(SEAL)

*An electronic version of this order is available on the World Wide Web at
<http://www.dot.gov/dotinfo/general/orders/aviation.html>.*

⁴ Neither TWA nor United is currently operating services in the U.S.-Russia market. TWA if it intends to resume service should notify the Department in its letter as to whether its services would be seasonal or year-round. Similarly, United should specify in its letter whether the services it seeks to resume would be provided on a year-round or seasonal basis.